

**Application No.:** 09/996,439  
**Filing Date:** November 28, 2001

### **REMARKS**

Claims 28-35 and 37-47 were pending in this application. Claims 1-27 were previously canceled without prejudice. As discussed in greater detail below, clarifying amendments are made to Claims 28, 31 and 46 herein. Accordingly, Claims 28-35 and 37-47 are presented herein for further consideration.

#### **Supplemental Reissue Declaration**

According to the Office Action, Claims 28-35 and 37-47 stand rejected as being based upon a defective Declaration under 35 U.S.C. §251. In order to overcome this rejection, Applicant submits herewith a Supplemental Declaration executed by an authorized representative of the Assignee of the present application is being filed together with this amendment and response in accordance with 37 C.F.R. §1.175(b)(1) and MPEP §1414.01.

#### **Claim Rejections under 35 U.S.C. §251**

According to the Office Action, Claims 28-35, 37 and 38 stand rejected under 35 U.S.C. §251 as being broadened in a reissue application filed outside the two year statutory period. In light of the amendments made herein, Applicant respectfully submits that this rejection is moot. Accordingly, Applicant respectfully requests that this rejection be withdrawn.

#### **Claim Rejections under 35 U.S.C. §112**

According to the Office Action, Claims 31-33, 46 and 47 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter the subject matter which the Applicant. In light of the amendments made herein to Claims 31 and 46, Applicant respectfully submits that this rejection is moot. Accordingly, Applicant respectfully requests that this rejection be withdrawn.

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**Status of Claims, Explanation of Claim Amendments and Support therefor - 37 C.F.R. §1.173(c)**

Claims 28-35 and 37-47 were pending in this application. Claims 1-9 were canceled without prejudice as part of the Amendment filed with the U.S. Patent and Trademark Office (USPTO) on July 28, 2009. In addition, Claims 10-27 were canceled without prejudice as part of the Amendment filed with the USPTO on November 11, 2008. As noted above and reflected in the listing of claims, clarifying amendments are made to Claims 28, 31 and 46 herein. No new subject matter is introduced as a result of these amendments.

The status of the claims is provided in the following table. A list of support from the specification and figures of the original patent, U.S. Patent No. 5,597,200 ("the '200 patent"), for the presently pending claims is also provided in the table. This list is not intended to be comprehensive.

<u>Claim(s)</u>	<u>Status</u>	<u>Support (<i>inter alia</i>) in the '200 patent</u>	<u>Notes/Comments</u>
1-9.	Canceled	n/a	As issued in the '200 patent
10-27.	Canceled	n/a	Claims 10-21 were amended in the Preliminary Amendment filed concurrently with the present application on Nov. 28, 2001
28.	Currently Amended	Figs. 1-10B; col. 1:6-21; col. 2:65-col. 10:47; Claims 1-9	As amended in the Preliminary Amendment filed concurrently with the present application on Nov. 28, 2001 and as amended herein
29.	Previously Presented	Figs. 1-10B; col. 1:6-21; col. 2:65-col. 10:47; Claims 1-9	As originally filed in the present application
30.	Previously Presented	Figs. 1-10B; col. 1:6-21; col. 2:65-col. 10:47; Claims 1-9	As amended in the Preliminary Amendment filed concurrently with the present application on Nov. 28, 2001
31.	Currently Amended	Figs. 1-10B; col. 1:6-21; col. 2:65-col. 10:47; Claims 1-9	As amended in the Preliminary Amendment filed concurrently with the present application on Nov. 28, 2001 and as amended herein
32.	Previously Presented	Figs. 1-10B; col. 1:6-21; col. 2:65-col. 10:47; Claims 1-9	As amended in the Preliminary Amendment filed concurrently with the present application on Nov. 28, 2001

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<u>Claim(s)</u>	<u>Status</u>	<u>Support (<i>inter alia</i>) in the '200 patent</u>	<u>Notes/Comments</u>
33.	Previously Presented	Figs. 1-10B; col. 1:6-21; col. 2:65-col. 10:47; Claims 1-9	As amended in the Preliminary Amendment filed concurrently with the present application on Nov. 28, 2001
34.	Previously Presented	Figs. 1-10B; col. 1:6-21; col. 2:65-col. 10:47; Claims 1-9	As originally filed in the present application
35.	Previously Presented	Figs. 1-10B; col. 1:6-21; col. 2:65-col. 10:47; Claims 1-9	As amended in the Preliminary Amendment filed concurrently with the present application on Nov. 28, 2001
36.	Canceled	n/a	Canceled in the Preliminary Amendment filed concurrently with the present application on Nov. 28, 2001
37.	Previously Presented	Figs. 1-10B; col. 1:6-21; col. 2:65-col. 10:47; Claims 1-9	As amended in the Preliminary Amendment filed concurrently with the present application on Nov. 28, 2001
38.	Previously Presented	Figs. 1-10B; col. 1:6-21; col. 2:65-col. 10:47; Claims 1-9	As originally filed in the present application
39.	Previously Presented	Figs. 1-10B; col. 1:6-21; col. 2:65-col. 10:47; Claims 1-9	As added in the Preliminary Amendment filed on Nov. 11, 2008; This claim is identical to original Claim 1, as amended in the Preliminary Amendment filed with the present application on Nov. 28, 2001
40.	Previously Presented	Figs. 1-10B; col. 1:6-21; col. 2:65-col. 10:47; Claims 1-9	As added in the Preliminary Amendment filed on Nov. 11, 2008; This claim is identical to original Claim 2, as initially filed with the present application on Nov. 28, 2001
41.	Previously Presented	Figs. 1-10B; col. 1:6-21; col. 2:65-col. 10:47; Claims 1-9	As added in the Preliminary Amendment filed on Nov. 11, 2008; This claim is identical to original Claim 3, as amended in the Preliminary Amendment filed with the present application on Nov. 28, 2001
42.	Previously Presented	Figs. 1-10B; col. 1:6-21; col. 2:65-col. 10:47; Claims 1-9	As added in the Preliminary Amendment filed on Nov. 11, 2008; This claim is identical to original Claim 4, as amended in the Preliminary Amendment filed with the present application on Nov. 28, 2001

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<u>Claim(s)</u>	<u>Status</u>	<u>Support (<i>inter alia</i>) in the '200 patent</u>	<u>Notes/Comments</u>
43.	Previously Presented	Figs. 1-10B; col. 1:6-21; col. 2:65-col. 10:47; Claims 1-9	As added in the Preliminary Amendment filed on Nov. 11, 2008; This claim is identical to original Claim 5, as amended in the Preliminary Amendment filed with the present application on Nov. 28, 2001
44.	Previously Presented	Figs. 1-10B; col. 1:6-21; col. 2:65-col. 10:47; Claims 1-9	As added in the Preliminary Amendment filed on Nov. 11, 2008; This claim is identical to original Claim 6, as initially filed with the present application on Nov. 28, 2001
45.	Previously Presented	Figs. 1-10B; col. 1:6-21; col. 2:65-col. 10:47; Claims 1-9	As added in the Preliminary Amendment filed on Nov. 11, 2008; This claim is identical to original Claim 7, as initially filed with the present application on Nov. 28, 2001
46.	Currently Amended	Figs. 1-10B; col. 1:6-21; col. 2:65-col. 10:47; Claims 1-9	As added in the Preliminary Amendment filed on Nov. 11, 2008 and as amended herein
47.	Previously Presented	Figs. 1-10B; col. 1:6-21; col. 2:65-col. 10:47; Claims 1-9	As added in the Preliminary Amendment filed on Nov. 11, 2008

#### **No Disclaimers or Disavowals**

Although the present communication may include alterations to the subject application or claims, or characterizations of claim scope or referenced art, the Applicant is not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. The Applicant reserves the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that the Applicant has made any disclaimers or disavowals of any subject matter supported by the present application.

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**Related Patents and Applications of Assignee**

Applicant provides the following table to aid the Examiner during prosecution. The following U.S. patents and patent applications are related to the above-captioned application in that they have at least one listed inventor or assignee in common with the above-captioned application:

Attorney Docket No.	Application No. (U.S. Patent No.)	Filing Date (Issue Date)	Status	Title
AMERGN.006A	08/156,562 (US 5,597,200)	Nov. 22, 1993 (Jan. 28, 1997)	Issued	VARIABLE TEMPERATURE SEAT
AMERGN.006DV1	08/787,038	Jan. 28, 1997	Abandoned	VARIABLE TEMPERATURE SEAT
AMERGN.006RA	09/239,054	Jan. 27, 1999	Abandoned	VARIABLE TEMPERATURE SEAT
AMERGN.006RAC1	09/749,221	Dec. 27, 2000	Abandoned	VARIABLE TEMPERATURE SEAT

Copies of these patents and patent applications, including any office actions, allowances and/or other communications, are available through PAIR. However, if the Examiner so requests, Applicant will be happy to provide the Examiner with copies of any applications, pending claims, office actions, allowances, communications or any other documents, at any time.

Further, Applicant notes for the record that the claims of the present application may be different and/or broader in scope than the claims in any related patent or application. To the extent that any statements made in a related case (such as amendments or characterizations regarding the scope of a claim or prior art) could be construed as a disclaimer of any subject matter supported by the present disclosure, Applicant rescinds and retracts such disclaimer. Accordingly, any listed or referenced prior art may need to be re-visited. Further, any objections or rejections made by the Examiner in the issued and allowed cases identified above may need to be re-visited.

Claims canceled in this application are done so without prejudice. Applicant is not conceding that the previously pending claims are not patentable over the art of record. Applicant reserves the right to later pursue any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or

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any parent, child or related prosecution history shall not reasonably infer that the Applicant has made any disclaimers or disavowals of any subject matter supported by the present application.

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### CONCLUSION

In view of the foregoing amendments and remarks, Applicant respectfully submits that the claims are now in condition for allowance. Accordingly, Applicant respectfully requests reconsideration of the claims in light of the amendments and the above remarks.


The Applicant has made a good faith effort to respond to the rejections in the Office Action and to place the claims in condition for immediate allowance. Nevertheless, if any issues remain or otherwise require clarification, the Examiner is respectfully requested to contact Applicant's attorney at the below-listed telephone number to promptly resolve such issues.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

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By:   
Theodore G. Papagiannis  
Registration No. 61,546  
Attorney of Record  
Customer No. 20995  
(949) 760-0404

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